

Applicant : Alfred F. Behrens
Serial No. : 10/697,227
Response to Office Action of December 1, 2004

Date: 3/28/05
Art Unit: 3732

REMARKS/ARGUMENTS

Favorable reconsideration is respectfully requested in view of the above amendments and the following discussion.

Applicant confirms the provisional election made by applicant's attorney, without traverse, to prosecute the invention of species I, claims 1-10 and 12-16. However, in view of the above amendments and the following discussion, it is respectfully requested that Claims 11 and 17 be rejoined and allowed along with the remaining claims in the application.

A corrected sheet of drawing is submitted herewith in order to obviate the objection to FIG. 1 of the drawing. It is applicant's intention that, upon allowance of the application, a formal, corrected drawing will be submitted.

Claims 1, 3, 6, 7 and 9 have been rejected under 35 U.S.C. 102(b) as being anticipated by Palkovitz (2,812,761; cited by applicant). As already indicated, applicant was well aware of the patent to Palkovitz at the time the present application was filed. The present invention is constructed and operated entirely different from the device of Palkovitz and is used in an entirely different manner, thereby overcoming drawbacks in the Palkovitz apparatus, as well as in many similar devices known in the prior art. Palkovitz mounts a base plate (1) upon a protruding end of an

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Amendments to the Drawing:

The attached replacement sheet of drawing includes changes to FIG.

1.. This sheet, which includes only FIG. 1, replaces the original sheet which includes FIG. 1. In FIG. 1, previously omitted wording **PRIOR ART** has been added.

Attachment: Replacement Sheet

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intramedullary pin (3) and attaches an adapter (5) which extends parallel to the intramedullary pin, spaced laterally from the pin by the base plate. Bores (5a) in the adapter then serve as guide bores for guiding transverse pins (7) through corresponding bores (3a) in the intramedullary pin, and into the fractured bone (A). The transverse pins (7) pass freely through the guide bores (5a) and through the corresponding bores (3a) so as to be lodged in the bone to maintain the bone fragments of the fractured bone in alignment. Thus, there is no support for the adapter other than the base plate arrangement at the end of the intramedullary pin. As a result, the long, cantilever arrangement of the adapter bar allows lateral movement of the adapter away from the desired parallel alignment, causing misalignment of the bores (5a) in the adapter with corresponding bores (3a) in the intramedullary pin. In addition, the relatively large base plate mounting arrangement requires concomitant relatively large invasion of the soft tissue adjacent the corresponding end of the fractured bone, causing more extensive trauma and greater exposure to infection, as well as increased recovery time and patient discomfort.

The present invention overcomes the above-outlined drawbacks found in the Palkovitz apparatus, and in like devices common in the prior art. Thus, at least one anchoring pin is secured in a socket

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within an intramedullary nail, at a location near a fractured end of a long bone, and spaced from the end of the bone to place the anchoring pin at the shaft of the bone, where there is minimal soft tissue and consequently minimal invasiveness. A drill guide then is coupled to and fully supported by the anchoring pin, placing a drill guide passage in close proximity to the fracture for accurate and reliable alignment. Claim 1, and all of the claims depending from claim 1, have been amended to point out with a greater degree of specificity the cooperation between the socket in the intramedullary nail and the anchoring pin, which cooperation secures the anchoring pin in place and enables the anchoring pin to be coupled to and fully support the drill guide. In the Palkovitz device, the transverse pin (7) is free to move through the bore (3a) in the intramedullary pin, and must be free to move through that bore, as well as through the corresponding bore (5a) in the adapter, so as to enable the transverse pin to be located and embedded in the fractured bone adjacent both ends of the bore (3a) in the intramedullary pin. The structural combination of elements set forth in the present claims, as well as the manner in which that structural combination of elements is used, is distinctly different from that disclosed in Palkovitz and the subject matter of claims 1, 3, 6, 7 and 9 is neither anticipated nor rendered

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obvious by the reference. Accordingly, it is respectfully requested that the rejection be withdrawn.

Claims 2, 4 and 10 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Palkovitz in view of Marino (4,733,654). The disclosure in Palkovitz has been fully discussed above. Marino employs threaded pins to capture a side plate. There is no correlation between the side plate of Marino and the adapter of Palkovitz which could suggest a combination of Marino with Palkovitz tenable to render obvious the subject matter of the present claims. Indeed, securing the transverse pins of Palkovitz within the intramedullary pin with screw threads in bores 3a would impede the embedding of the transverse pins in the fractured bone fragments as sought by the Palkovitz arrangement and would thereby destroy the very function of the Palkovitz device. Accordingly, the proposed combination of references is untenable in rendering obvious the subject matter of the present claims and the rejection must be withdrawn.

Claims 6 and 8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Palkovitz in view of Perry (5,766,174). Perry is directed toward a fixation device affixed at an end of a bone and, as such, illustrates a structure which the present invention seeks to avoid. Any tenable combination of Perry with

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Palkovitz cannot suggest the particular arrangement set forth in the present claims, wherein an anchoring pin is secured to an intramedullary nail at the shank of a fractured bone for minimal invasiveness, near a fracture at an end of the bone, to couple a drill guide for the accurate location of a stabilizing fastener to stabilize the fracture. Accordingly, the proposed combination of references cannot render obvious the subject matter of the present claims and the rejection must be withdrawn.

The remaining references have been reviewed and are deemed to add nothing by way of anticipation or rendering obvious the subject matter of the present claims.

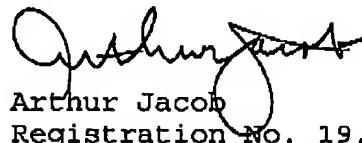
Claims 12 through 15 have been indicated as allowable, and claim 16 has been amended so as to be allowable. In addition, claim 17 has been amended and should be rejoined and allowed. Further, it is respectfully submitted that claim 11 now depends from an allowable generic claim and should be rejoined and allowed.

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It is respectfully submitted that all of the claims set forth subject matter which is neither anticipated nor rendered obvious in the prior art and it is respectfully requested that all of the claims be allowed and the application be passed to issue.

Respectfully submitted,


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